



FH
[REDACTED]

STATE OF WISCONSIN
Division of Hearings and Appeals

In the Matter of

[REDACTED]

DECISION

BCS/143254

PRELIMINARY RECITALS

Pursuant to a petition filed August 17, 2012, under Wis. Stat. § 49.45(5)(a), to review a decision by the Milwaukee Enrollment Services in regard to Medical Assistance, a hearing was held on October 16, 2012, at Milwaukee, Wisconsin.

The issue for determination is whether the agency properly discontinued BadgerCare Plus (BCP) for the Petitioner and her husband and properly determined a monthly premium for Petitioner's children to be eligible for BCP Benchmark Plan.

There appeared at that time and place the following persons:

PARTIES IN INTEREST:

Petitioner:

[REDACTED]

Respondent:

Department of Health Services
1 West Wilson Street
Madison, Wisconsin 53703

By: Alma Lezama

Milwaukee Enrollment Services
1220 W Vliet St
Milwaukee, WI 53205

ADMINISTRATIVE LAW JUDGE:

Debra Bursinger
Division of Hearings and Appeals

FINDINGS OF FACT

1. Petitioner (CARES # [REDACTED]) is a resident of Milwaukee County.

2. On July 23, 2012, the agency updated the Petitioner's household income based on an employer verification and pay statements from the Petitioner's husband's employer. Household income was budgeted as \$6,400/month. The household size is 7.
3. The income limit for BCP Standard Plan for a household size of 7 is \$5,821.66. The premium income limit is \$3,871.40. The premium income limit for BCP Benchmark Plan for a household size of 7 is \$5,821.66.
4. On August 10, 2012, the agency issued a Notice of Decision to the Petitioner notifying her that as of September 1, 2012, she and her husband would no longer be eligible for BCP benefits and her children would be eligible for the BCP Benchmark Plan with a monthly premium of \$50.
5. On August 17, 2012, the Petitioner filed an appeal with the Division of Hearings and Appeals.

DISCUSSION

Wisconsin's BadgerCare program, as set forth in Wis. Stats. §49.665, is intended to provide basic health care coverage for low-income families that do not have access to employer-subsidized health insurance. The Wisconsin Department of Health Services is charged with establishing the criteria for determining income under BadgerCare, Wis. Stats. §49.665(4) (a) 1. A family meets the financial eligibility requirements for BadgerCare on its initial application if its income does not exceed 185% of the poverty line, Wis. Stats. §49.665(4) (a) 1. A family that is already participating in BadgerCare maintains its eligibility if its income does not exceed 200% of the poverty line, Id.

In the instant appeal, the petitioner's case is an appeal of the August 1, 2012 discontinuance of BadgerCare benefits for Petitioner and her husband due to excess income as well as the children's change in insurance to BCP Benchmark Plan with a \$50/month premium. As explained above, the applicable income limit for a BadgerCare recipient is 200% of the poverty line. The income limit for a household of seven is \$5,821.66 pursuant to the Medicaid Eligibility Handbook § 39.5, "FPL Tables" and the BadgerCare Plus Eligibility Handbook, §50.1, "FPL Tables."

The Petitioner does not dispute the agency's budget or premium calculations. The Petitioner testified that she filed an appeal to request that one of her children be allowed to re-enroll in straight Title 19 Medicaid in order to ensure that treatment for a mental illness is covered.

An administrative law judge does not have equitable authority and must apply the regulations. The Petitioner does not dispute the accuracy of the agency's determination and seeks only equitable relief which I have no authority to grant. Therefore, I must affirm the agency's determination to discontinue BCP benefits to the Petitioner and her husband due to income over the program limit. Likewise, I must affirm the agency's determination to provide BCP Benchmark Plan coverage to the Petitioner's children with a \$50/month premium.

As dicta, I note that the agency worker agreed to discuss possible options with the Petitioner after the hearing.

CONCLUSIONS OF LAW

The agency properly discontinued BCP benefits for the Petitioner and her husband and properly determined the children's eligibility for BCP Benchmark Plan with a premium of \$50/month.

THEREFORE, it is

ORDERED

The petition be, and hereby is, dismissed.

REQUEST FOR A REHEARING

This is a final administrative decision. If you think this decision is based on a serious mistake in the facts or the law, you may request a rehearing. You may also ask for a rehearing if you have found new evidence which would change the decision. Your request must explain what mistake the Administrative Law Judge made and why it is important or you must describe your new evidence and tell why you did not have it at your first hearing. If you do not explain these things, your request will have to be denied.

To ask for a rehearing, send a written request to the Division of Hearings and Appeals, P.O. Box 7875, Madison, WI 53707-7875. Send a copy of your request to the other people named in this decision as "PARTIES IN INTEREST." Your request for a rehearing must be received no later than 20 days after the date of the decision. Late requests cannot be granted.

The process for asking for a rehearing is in Wis. Stat. § 227.49. A copy of the statutes can be found at your local library or courthouse.

APPEAL TO COURT

You may also appeal this decision to Circuit Court in the county where you live. Appeals must be filed with the appropriate court no more than 30 days after the date of this hearing decision (or 30 days after a denial of rehearing, if you ask for one).

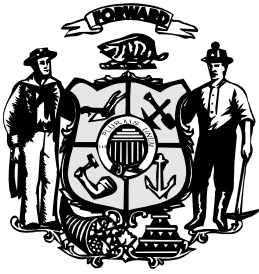
For purposes of appeal to circuit court, the Respondent in this matter is the Department of Health Services. After filing the appeal with the appropriate court, it must be served on the Secretary of that Department, either personally or by certified mail. The address of the Department is: 1 West Wilson Street, Madison, Wisconsin 53703. A copy should also be sent to the Division of Hearings and Appeals, 5005 University Avenue, Suite 201, Madison, WI 53705-5400.

The appeal must also be served on the other "PARTIES IN INTEREST" named in this decision. The process for appeals to the Circuit Court is in Wis. Stat. §§ 227.52 and 227.53.

Given under my hand at the City of Milwaukee,
Wisconsin, this 1st day of November, 2012

Debra Bursinger
Administrative Law Judge
Division of Hearings and Appeals

c: Division of Health Care Access and Accountability, DHSDHADHCAA@Wisconsin.gov -
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Enrollment Services



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The preceding decision was sent to the following parties on November 1, 2012.

Milwaukee Enrollment Services
Division of Health Care Access and Accountability